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Letter dated 11 November 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 21 May 2003 (S/2003/596).

The Counter-Terrorism Committee has received the attached third report from Senegal submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 11 November 2003 from the Permanent Mission of Senegal to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of Senegal to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and has the honour to transmit herewith, the second supplementary report of the Government of Senegal to the Committee (see enclosure).

Enclosure

Second supplementary report of Senegal on the implementation of the provisions of Security Council resolution 1373 (2001) concerning counter-terrorism*

[Original: French]

In response to the comments and questions of the Counter-Terrorism Committee, and in addition to the initial and supplementary reports it has already submitted, the Government of Senegal hereby submits the information requested concerning the implementation of Security Council resolution 1373 (2001).

I. Implementation measures

1-2. Measures taken to give effect to the International Convention for the Suppression of the Financing of Terrorism in Senegalese domestic law.

An article of the Penal Code will be revised to state: "The act of directly or indirectly financing a terrorist undertaking by providing or managing any funds, assets or property, or offering advice to that end, with the intention that such funds, assets or property should be used or in the knowledge that they will be used, in whole or in part, to commit a terrorist act shall also constitute a terrorist act".

Anti-terrorism legislation is supported by banks and financial institutions, irrespective of their legal status, the location of their headquarters or main offices, and the nationality of their shareholders or directors.

Regulation No. 14/2002/CM/UEMOA on freezing funds and other resources applies to Senegal as well as to the other seven States members of the West African Economic and Monetary Union (WAEMU). It has been in effect since 19 September 2002.

1-3. Taking into account in Senegalese legislation the obligation imposed on financial institutions and other intermediaries like lawyers, brokers and notaries to report suspicious financial transactions.

States members of WAEMU were given a six-month period and a deadline of November 2003 to adopt Directive No. 7/0002/CM/UEMOA on the control of money-laundering as a uniform law.

Article 5 of this Directive determines the scope of the law, which applies to persons or entities which, as part of their business or profession, carry out, control or act as consultants for operations involving deposits, foreign exchange, investments, conversions or any other movement of capital or property, including:

* Annexes are with the Secretariat and are available for consultation.

- The Public Treasury, the Central Bank of West African States (BCEAO), financial organizations; independent members of the legal professions when they represent or assist clients in legal matters other than court proceedings; other persons subject to the law, including intermediaries of financial institutions; auditors; real estate agents; funds transfer agents; dealers in precious objects (paintings, precious stones and metals), owners, directors and managers of gambling houses and travel agencies; and non-governmental organizations (NGOs);
- Article 26 of the uniform law establishes the obligation of all persons and entities referred to in article 5 above to report suspicious transactions involving:
  - any sums of money and other assets which might be the proceeds of money laundering;
  - operations involving assets which might be part of a money-laundering process;
  - sums of money and all other assets where such assets are suspected of being intended to finance terrorism and seem to be the proceeds of operations related to money-laundering.

1-4. On articles 87 bis and 372 of the Code of Criminal Procedure and steps which Senegal intends to take in order to comply fully with the requirement to freeze funds used for terrorism.

The aforesaid Regulation No. 14/2002/CM/UEMOA authorizes the freezing of funds and other financial resources of persons, entities or organizations designated by the Committee. This list is drawn up by the WAEMU Council of Ministers.

The provisions of articles 87 bis and 372 of the Code of Criminal Procedure, superseding its article 372, state:

Article 87 bis

- "on receiving a request to initiate an investigation, the examining magistrate can automatically or at the request of the party or the Public Prosecutor's Office, order provisional measures to protect the assets of the accused".

Article 372 bis

- "The Court before which the case has been brought has the same authority as the examining magistrate to order the provisional protection measures referred to in article 87 bis".

1-5. On the mechanism to audit and monitor the use of funds by religious, charitable and other associations.

Prior to the adoption of the Uniform Law, Senegal had not dealt with the question of mechanisms for registering, auditing and monitoring the collection and use of resources by religious, charitable or other associations. This law provides for monitoring subject to regulations.

Moreover, since 19 September 2002, the matter has begun to be addressed under Regulation No. 14/2002/CM/UEMOA.

Indeed, article 2 of that Regulation calls for "establish[ing] rules on the freezing of funds and other financial resources in the States members by the persons referred to in paragraph 3 of Security Council resolution 1267 (1999) in order to prevent the use of WAEMU bank and financial networks to finance terrorism".

Article 4 of this Regulation sets out the conditions for applying measures to freeze funds and other financial resources. By that article, the freeze will apply to "all funds and other financial resources belonging to any natural or moral person, entity or organization designated by the sanctions committee".

It should be noted that this WAEMU regulation is applicable to NGOs as well.

1-6. On criminalizing the recruitment of persons intending to join the ranks of terrorist groups.

The revised Penal Code criminalizes association with the perpetrators of crimes as a terrorist act punishable under articles 238 to 240, where such criminal acts are committed intentionally against an individual or collective undertaking and are aimed at seriously disrupting the public order or the normal functioning of institutions by intimidation or terror.

1-7. On the procedure for the transmittal and sharing of information on terrorism.

The Ministry of the Interior of Senegal has units specializing in the prevention and control of terrorism within the General Directorate of National Security (DGSN). These include the Department of State Security (DSE), the Criminal Investigation Police Department (DPJ) and the General Intervention Brigade (BIP).

In conjunction with the National Central Bureau (BCN), these various units gather, centralize, use and exchange all information on terrorism in what amounts to the Senegalese equivalent of the International Criminal Police Organization (Interpol).

Cooperation with the intelligence services of friendly countries also facilitates effective prevention and control of this scourge. Such cooperaton is also practised by the security services of the Army and National Police.

1-8. On ratification of the Conventions on terrorism and their implementation in Senegalese domestic legislation.

Concerning anti-terrorism, it should be noted that Senegal has thus far ratified 8 of 12 United Nations conventions relating to terrorism. Among the four which it has not yet ratified, two will soon be reviewed by the National Assembly and the ratification process for the other two will be initiated very shortly (see summary document in annex).

Furthermore, from 15 July to 29 August 2002, the Penal Code and the Code of Criminal Procedure were reviewed by an interministerial working group overseen by the Ministry of Justice. The work of this group culminated in the submission to the Head of State of a draft law amending the Penal Code and a draft law amending the

Code of Criminal Procedure with a view to criminalizing certain crimes related to terrorism.

Hence, the draft law amending the Penal Code defines all terrorist acts recognized as crimes, specifying certain aspects such as ecological terrorism. Apologies for and the financing of terrorism are punishable. Penalties for terrorist acts include the death sentence or prison sentences ranging from life to 10 to 20 years plus fines.

An amendment of the Code of Criminal Procedure created specialized services within the Prosecutor's Office, including an office of examining magistrates specializing in information and units composed exclusively of examining magistrates with expertise in counter-terrorism and its prosecution.

The competence of the regional tribunal of Dakar, the Assize Court of Dakar and the Court of Appeal of Dakar in such matters extends throughout the national territory.

Investigators have sufficient authority to gather evidence. Hence, in accordance with the provisions of article 677-5 of the Code of Criminal Procedure, which derogates the provisions of articles 48 to 52 of that Code, homes "may be inspected or searched at any time of day or night upon written authorization from the judge hearing the case or from the Public Prosecutor, even without the consent of the person whose home is being searched".

On being advised, the Public Prosecutor in Dakar may assign a criminal investigation police officer specializing in anti-terrorism to carry out operations even in a case that had previously been handled by another criminal investigation police officer.

Under article 55 of the Code of Criminal Procedure, persons may be held in police custody for 48 hours under ordinary law, and this may be extended for another 48-hour period.

The period of police custody is twice as long for crimes and offences against State security. Under the new article 677-6 of the Code of Criminal Procedure, the period of custody may also be doubled in the case of terrorism.

The new provisions also make it possible to extend the time limit for prosecuting crimes related to terrorism by another 30 years. The time limit on the enforceability of sentences is 40 years from the date of the final decision.

Lastly, national criminal courts have universal jurisdiction in counter-terrorism matters.

1-9. The views of Senegal concerning the extradition of persons who have participated in terrorist activities, alleged to have been politically motivated.

With regard to extradition, it should be noted that, on the face of it, there is nothing against extradition in Senegalese legislation, provided that there is evidence of the link between such acts and their political nature or motive.

In any case, the judiciary authority (indictment division) must give its opinion on any request for extradition before a decision can be taken by the administrative authority.

II. Assistance and guidance

We should stress the importance of our country's need for assistance in the areas of rehabilitation, equipment and the strengthening of our facilities for printing and publishing legislative acts, regulations and, in particular, international legal instruments (covenants, conventions, treaties, agreements, supplementary arrangements) between Senegal and international organizations or other States in the Official Journal, which will make them fully enforceable and help to strengthen their effectiveness.

Assistance is also needed to train persons in the public and private sectors responsible for implementing international legal instruments, laws and regulations in the very sensitive field of counter-terrorism.

A list of material requirements is contained in the annex.